



AUSTRALIAN PUBLIC SERVICE COMMISSIONER
LYNELLE BRIGGS

Mr Elton Humphery
Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600



Dear Mr ~~Elton~~ Humphery

Inquiry into Compliance Audits on Medicare Benefits

Thank you for your email of 8 May 2009 which sought my views on comments made by a witness at the Committee hearing on 6 May 2009 about privacy awareness and practices within the Australian Public Service (APS).

I want to make, it clear, in the first instance, that the APS takes its privacy obligations very seriously. I not aware of any evidence that supports the allegations made by the witnesses.

It may be helpful if I set out the framework for ensuring awareness of privacy issues and for dealing with suspected breaches of privacy.

The Office of the Privacy Commissioner (the Office) has responsibility for the *Privacy Act 1988* and oversees the privacy legislative and policy framework under which the APS operates. As you may be aware, the Office provides general privacy advice, including best privacy practice and investigates complaints against Australian and ACT government agencies and private sector organisations, including health service providers. The Office can also audit Australian and ACT government agencies and has the power to initiate own motion investigations about potential breaches of privacy. Individual agencies put in place privacy policies implementing the requirements of the Privacy Act to their particular operations and to conduct appropriate awareness training.

The *Public Service Act 1999* (the Act) requires APS employees to uphold the APS Values and comply with the APS Code of Conduct, which are found in sections 10 and 13. A copy of the Values and the Code is attached. The Code includes a requirement:

- to obey all applicable Australian laws (s. 13(4))
- not to make improper use of inside information to gain or seek to gain a benefit or an advantage (s. 13(10)).

In addition, Public Service Regulation 2.1 prohibits APS employees from disclosing information that was received in confidence by the government from a person or persons outside the government.

If employees fail to comply with the requirements of the Privacy Act it could be a breach of the Code of Conduct. If it is determined that a breach has occurred an agency head may impose sanctions that include termination of employment, reduction in classification, transfer, reduction in salary or a fine. A suspected breach of Regulation 2.1 could also be investigated under s 70 of the *Crimes Act 1914*.

In 2007-8, 150 APS employees were investigated for suspected misconduct involving improper access to personal information and a breach was determined to have occurred in 70 per cent of these cases. This, I think, is sufficient evidence that the APS is serious about its privacy obligations.

If you require further information or clarification, please contact Karin Fisher, Group Manager, Ethics Group on 02 6202 3846 or by email at karin.fisher@apsc.gov.au.

Yours sincerely


Lynelle Briggs

25 May 2009